

#### **IV. REMARKS**

##### **Status of the Claims**

Claims 7-12 are amended. Claim 13 is cancelled and new claims 15 and 16 are added. Claims 7-12, 15 and 16 are presented for further consideration.

##### **Summary of the Office Action**

Claims 7-13 stand rejected under 35USC102(b) on the basis of the cited reference Lang, U.S. Patent No. 4,154,044 or the cited reference Gorlich, U.S. Patent No. 5,419,096. Claims 7-13 also stand rejected under 35USC102(e) on the basis of the cited reference Takahashi, U.S. Patent No. 6,694,709. Claims 7-13 stand rejected under 35USC112. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

It is believed that the Examiner's objections to claims 7-13 under 35USC112 are fully met by the amendments submitted herein.

##### **Discussion of the Cited Reference**

The reference Gorlich is the most pertinent of the cited references and discloses cylinders which are used to open the lid of a container in a sealing machine. The cylinders are reciprocated up by controlling a flow of gas through the cylinder, and down by an additional pusher bar mounted parallel to the upper sealing means.

In the system of the subject application the container to be sealed is opened by means of spring biased pins which engage overlapping portions of the container lid. In one embodiment, by

lowering the support for the tray of the container the lid is held above the tray. The advantage of the system of this invention is that the pins are actuated upwards automatically by the spring elements, and pushed down again by the sealing means. There is no need to control the movement of the cylinders with a the fluid pressure system. In the packaging machine, according to Gorlich, the gas pressure has to be controlled and synchronized with the movement of the pusher bar. A further advantage of the machine, according to the claims of this application, is that it may used with sealing machines using inert gas filling or with packaging machines using evacuation without inert gas.

The pins of the this invention are also positioned at the horizontal circumference of the tray, so that the upper part of the sealing means engage the pins and forces them down until the upper part is in operative engagement with the lower part of the sealing means. No additional means are needed to push down the opening means in coordination with the upper sealing tool. The sealing machine of this application is, therefore, easier to build and operate.

None of the cited references include spring biased opening pins that engage protruding portions of the lid of the container being sealed to allow evacuation of the container or filling of the container prior to sealing. Accordingly, the cited references fail to support the Examiner's position.

### **The Issue of Anticipation**

The Examiner is reminded that the anticipation analysis requires

a positive answer to the question of whether the system of cited references Lang, Gorlich, or Takahashi would infringe the claims of this application, if it were later. All of the claims of this application are directed to a sealing machine having the following elements:

**"means for opening the container comprising at least three vertically arranged pins, said pins being mounted on springs adapted to urge the pins in an upward motion; and**

**wherein the pins and the receptacle for holding the tray being vertically moveable relative to each other, the pins being located at the horizontal circumference of the tray, so that the upper part of the sealing means, while moving downward, push the pins downward, against the spring, until the upper**

Since the claimed arrangement of pins of is not present in the systems of the cited references, there can be no infringement of the subject claims. Therefore the teachings of Lang, Gorlich, or Takahashi do not support the rejection based on anticipation with respect to any of the claims.

These arguments apply equally to the rejected dependent claims.

For all of the above reasons, it is respectfully submitted that the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$120.00 is enclosed for a one month extension of time. The Commissioner is hereby authorized to

charge payment for any fees associated with this communication or  
credit any over payment to Deposit Account No. 16-1350.



Respectfully submitted,

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3 OCTOBER 2005  
Date

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